IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

OP.No. 7436 of 1999(I)

PETITIONER:

P.A.DEV,
ADVOCATE,
PADMA, BURMA ROAD,
TRIVANDRUM-695 011.

BY ADV. SRI.M.BALAGOVINDAN
SRI.BIJU KURIAKOSE

RESPONDENTS:
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1. STATE OF KERALA,
REP. BY CHIEF SECRETARY,
SECRETARIAT, TRIVANDRUM.

2. SECRETARY TO GOVERNMENT,
IRRIGATION DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

3. CHIEF ENGINEER,
K.I.P., KOTTARAKKARA,
KOLLAM DIST.

4. EXECUTIVE ENGINEER,
K.I.P. MCS DIVISION NO.7,
KOLLAM.

BY GOVERNMENT PLEADER SMT.SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.12523/1999 IN O.P. NO.7436/1999

DISMISSED:

19.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITITONER'S EXHIBITS:

P1: TRUE COPY OF ORDER FROM THE PRINCIPAL SUB JUDGE, DT.3.10.97.

P1(a): .DO. DT.3.11.97.

P2: TRUE COPY OF PROCEEDINGS OF THE ARBITRATOR DT.4.2.98.

P2(a): .DO. .DO.

P3: TRUE COPY OF THE NOTICE IN O.S. 229/95 DT.28.2.98.

P3(a): TRUE COPY OF THE NOTICE IN O.S. 376/95 DT.28.2.98.

P4: TRUE COPY OF LETTER FROM R4 DT.21.12.98.

P5: TRUE COPY OF O.P. NO.14/98 FILED BY RESPONDENTS IN SUB COURT DT.10.2.98.

P6: TRUE COPY OF I.A. 741/98 DT.10.2.98.

P7: TRUE COPY OF ORDER IN I.A. 741/98 DT.6.3.98.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.7436 of 1999

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Dated this the 19th day of March, 2007.

JUDGMENT

The petitioner was arbitrator appointed by the Sub Court to settle dispute between Government and two contractors. However, during pendency of arbitration, Ordinance was promulgated withdrawing arbitration clause. Even though objection was raised by the respondents against continuation of arbitration, petitioner continued the same and arbitration awards are passed. Government Pleader reported that appeals are filed against arbitration awards. If appeals are pending, then of course petitioner's claim for fees also could be decided by the appeal court. If arbitration awards have become final, then respondents are bound to pay the fees approved by the Sub Court to the petitioner. The O.P. is disposed of directing the District Court or Sub Court as the case may be depending on whether appeal is pending against award, to pass orders on petitioner's claim for fees while disposing of appeals within two months from the date of production of copy of this judgment by the petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms